

SENATE BILL 590

Q3
SB 1/13 – B&T

4lr0828

By: **Senator Brinkley**
Introduced and read first time: January 30, 2014
Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Pass-Through Entity – Maximum Rate**

3 FOR the purpose of providing that for a certain amount of income distributed to
4 members of certain pass-through entities the State and county income tax rates
5 are limited to certain amounts; providing for the calculation of certain taxable
6 income; defining certain terms; providing for the application of this Act;
7 repealing an obsolete provision; and generally relating to the State and county
8 income tax rates that apply to income received from certain pass-through
9 entities.

10 BY repealing and reenacting, with amendments,
11 Article – Tax – General
12 Section 10–105(a) and 10–106(a)
13 Annotated Code of Maryland
14 (2010 Replacement Volume and 2013 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article – Tax – General**

18 10–105.

19 (a) (1) [For] **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
20 **SUBSECTION, FOR** an individual other than an individual described in paragraph (2)
21 of this subsection, the State income tax rate is:

22 (i) 2% of Maryland taxable income of \$1 through \$1,000;

23 (ii) 3% of Maryland taxable income of \$1,001 through \$2,000;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (iii) 4% of Maryland taxable income of \$2,001 through \$3,000;
- 2 (iv) 4.75% of Maryland taxable income of \$3,001 through
3 \$100,000;
- 4 (v) 5% of Maryland taxable income of \$100,001 through
5 \$125,000;
- 6 (vi) 5.25% of Maryland taxable income of \$125,001 through
7 \$150,000;
- 8 (vii) 5.5% of Maryland taxable income of \$150,001 through
9 \$250,000; and
- 10 (viii) 5.75% of Maryland taxable income in excess of \$250,000.

11 (2) [For] **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
12 **SUBSECTION, FOR** spouses filing a joint return or for a surviving spouse or head of
13 household as defined in § 2 of the Internal Revenue Code, the State income tax rate is:

- 14 (i) 2% of Maryland taxable income of \$1 through \$1,000;
- 15 (ii) 3% of Maryland taxable income of \$1,001 through \$2,000;
- 16 (iii) 4% of Maryland taxable income of \$2,001 through \$3,000;
- 17 (iv) 4.75% of Maryland taxable income of \$3,001 through
18 \$150,000;
- 19 (v) 5% of Maryland taxable income of \$150,001 through
20 \$175,000;
- 21 (vi) 5.25% of Maryland taxable income of \$175,001 through
22 \$225,000;
- 23 (vii) 5.5% of Maryland taxable income of \$225,001 through
24 \$300,000; and
- 25 (viii) 5.75% of Maryland taxable income in excess of \$300,000.

26 (3) (I) **IN THIS PARAGRAPH THE FOLLOWING WORDS HAVE THE**
27 **MEANINGS INDICATED.**

28 (II) **“MEMBER” MEANS:**

- 1 1. A SHAREHOLDER OF AN S CORPORATION;
- 2 2. A GENERAL OR LIMITED PARTNER OF A
- 3 PARTNERSHIP, LIMITED PARTNERSHIP, OR LIMITED LIABILITY PARTNERSHIP;
- 4 3. A MEMBER OF A LIMITED LIABILITY COMPANY; OR
- 5 4. A BENEFICIARY OF A BUSINESS TRUST OR
- 6 STATUTORY TRUST.

7 (III) “PASS-THROUGH ENTITY” MEANS:

- 8 1. AN S CORPORATION;
- 9 2. A PARTNERSHIP;
- 10 3. A LIMITED LIABILITY COMPANY THAT IS NOT
- 11 TAXED AS A CORPORATION UNDER THIS TITLE; OR
- 12 4. A BUSINESS TRUST OR STATUTORY TRUST THAT IS
- 13 NOT TAXED AS A CORPORATION UNDER THIS TITLE.

14 (IV) NOTWITHSTANDING PARAGRAPHS (1) AND (2) OF THIS

15 SUBSECTION, FOR THE FIRST \$25,000 OF INCOME DISTRIBUTED TO A MEMBER

16 OF A PASS-THROUGH ENTITY, THE TAX RATE IS 2.875%.

17 (V) FOR PURPOSES OF ADMINISTERING THE TAX RATE

18 UNDER THIS PARAGRAPH, INCOME DISTRIBUTED TO A MEMBER OF A

19 PASS-THROUGH ENTITY IS INCLUDED IN THE MARYLAND TAXABLE INCOME OF

20 THE MEMBER AND APPORTIONED TO REFLECT THE TAX RATE IMPOSED UNDER

21 THIS PARAGRAPH.

22 10-106.

23 (a) (1) [Each] EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS

24 SUBSECTION, EACH county shall set, by ordinance or resolution, a county income tax

25 equal to at least 1% but not more than [the percentage] 3.2% of an individual’s

26 Maryland taxable income [as follows:

27 (i) 3.05% for a taxable year beginning after December 31, 1998

28 but before January 1, 2001;

29 (ii) 3.10% for a taxable year beginning after December 31, 2000

30 but before January 1, 2002; and

1 (iii) 3.20% for a taxable year beginning after December 31,
2 2001].

3 (2) A county income tax rate continues until the county changes the
4 rate by ordinance or resolution.

5 (3) (i) A county may not increase its county income tax rate above
6 2.6% until after the county has held a public hearing on the proposed act, ordinance,
7 or resolution to increase the rate.

8 (ii) The county shall publish at least once each week for 2
9 successive weeks in a newspaper of general circulation in the county:

10 1. notice of the public hearing; and

11 2. a fair summary of the proposed act, ordinance, or
12 resolution to increase the county income tax rate above 2.6%.

13 (4) Notwithstanding paragraph (1) or (2) of this subsection, in Howard
14 County, the county income tax rate may be changed only by ordinance and not by
15 resolution.

16 (5) (I) 1. IN THIS PARAGRAPH THE FOLLOWING WORDS
17 HAVE THE MEANINGS INDICATED.

18 2. "MEMBER" MEANS:

19 A. A SHAREHOLDER OF AN S CORPORATION;

20 B. A GENERAL OR LIMITED PARTNER OF A
21 PARTNERSHIP, LIMITED PARTNERSHIP, OR LIMITED LIABILITY PARTNERSHIP;

22 C. A MEMBER OF A LIMITED LIABILITY COMPANY; OR

23 D. A BENEFICIARY OF A BUSINESS TRUST OR
24 STATUTORY TRUST.

25 3. "PASS-THROUGH ENTITY" MEANS:

26 A. AN S CORPORATION;

27 B. A PARTNERSHIP;

1 **C. A LIMITED LIABILITY COMPANY THAT IS NOT**
2 **TAXED AS A CORPORATION UNDER THIS TITLE; OR**

3 **D. A BUSINESS TRUST OR STATUTORY TRUST THAT IS**
4 **NOT TAXED AS A CORPORATION UNDER THIS TITLE.**

5 **(II) NOTWITHSTANDING PARAGRAPH (1) OF THIS**
6 **SUBSECTION, FOR THE FIRST \$25,000 OF INCOME DISTRIBUTED TO A MEMBER**
7 **OF A PASS-THROUGH ENTITY, THE TAX RATE MAY NOT EXCEED 1.6%.**

8 **(III) FOR PURPOSES OF ADMINISTERING THE TAX RATE**
9 **UNDER THIS PARAGRAPH, INCOME DISTRIBUTED TO A MEMBER OF A**
10 **PASS-THROUGH ENTITY IS INCLUDED IN THE MARYLAND TAXABLE INCOME OF**
11 **THE MEMBER AND APPORTIONED TO REFLECT THE TAX RATE IMPOSED UNDER**
12 **THIS PARAGRAPH.**

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 July 1, 2014, and shall be applicable to all taxable years beginning after December 31,
15 2013.